

MICHIGAN SUPREME COURT



Office of Public Information

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FOR IMMEDIATE RELEASE

PROPOSED RULE REQUIRING JUDGES TO EXERCISE ‘REASONABLE CONTROL’ OVER PARTIES’, WITNESSES’ APPEARANCE ON AGENDA FOR MICHIGAN SUPREME COURT’S PUBLIC ADMINISTRATIVE CONFERENCE ON JUNE 17

LANSING, MI, June 16, 2009 – A proposed rule requiring judges to exercise “reasonable control” over the appearance of parties and witnesses is on the agenda for the [Michigan Supreme Court’s public administrative conference](#) tomorrow.

The Court is considering whether to amend Michigan Rule of Evidence 611 to state that “The court shall exercise reasonable control over the appearance of parties and witnesses so as to (1) ensure that the demeanor of such persons may be observed and assessed by the fact-finder, and (2) to ensure the accurate identification of such persons.”

A staff comment states that the proposal ([ADM 2007-13](#)) was prompted by “a case in which a district judge was sued for dismissing a plaintiff’s case following the plaintiff’s refusal to remove her hijab [face veil] during testimony.” The plaintiff later sued the district judge in federal district court, claiming a civil rights violation, but the federal court declined to exercise jurisdiction and dismissed the case. It is currently pending before the U.S. Court of Appeals for the Sixth Circuit. “In declining to exercise jurisdiction, the federal district court noted that state court review ‘would have avoided many of the federalism concerns’ cited by the court,” the staff comment states.

Also on the Court’s administrative conference agenda is a proposed rule that would require judges to warn jurors against using a “computer, cellular phone, or other electronic device with communication capabilities while in attendance at trial or during deliberation.”

The proposed revision to Michigan Court Rule 2.516 ([ADM 2008-33](#)) provides that jurors must be instructed not to use cell phones, computers, or other devices outside of court to read news accounts of the case, look into a party’s or witness’ criminal record, research issues and information raised during the trial, or find any other information the juror thinks would be helpful. A juror who knows or suspects that another juror has violated the rule must immediately report the violation to the court, the rule proposal states. The proposal would also bar jurors from reading or listening to news reports about the case, and would prohibit jurors from discussing the case among themselves until deliberation.

The public conference, which begins at 9:30 a.m., will take place in the Supreme Court’s courtroom on the 6th floor of the [Michigan Hall of Justice](#) in Lansing. Administrative conferences are open to the public.

At its administrative conferences, the Court's seven Justices discuss various administrative proposals and decide what action the Court should take on them. Administrative conference agendas are posted online at www.courts.mi.gov/supremecourt under "Resources."

Also on the conference agenda are amendments to MCR 8.115 ([ADM 2008-35](#)) regarding use of cell phones in courthouses. The proposed changes that were published for comment would allow attorneys to carry "cell phones or other portable electronic devices into any court facility" and would also permit their use anywhere outside the courtroom, and provide alternative proposals for use of the devices in courtrooms.

Other agenda items:

- A report on child welfare activities of state courts, including a recent [report](#) from the [State Court Administrative Office](#) about the results of a state "adoption forum."
- [ADM 2005-05 and 2006-20](#). These proposals would update court rules relating to mediation and case evaluation. The changes were recommended by the [Dispute Resolution Rules Committee](#) convened by SCAO.
- A proposed "prison mailbox rule" (ADM 2009-07) governing applications for leave to appeal filed by prison inmates. A "prison mailbox rule" would provide that the inmate would be deemed to have submitted for filing the leave application on the date the application is deposited in the Expedited Legal Mail or other mail system at the inmate's correctional institution.
- Continuing discussion of rules governing the Court's administrative conferences.
- A proposed revision of Michigan Rule of Professional Conduct 1.5, which sets ethical requirements for fee arrangements between attorneys and their clients (ADM 2009-06).
- Court rule changes recommended by the Michigan Judges Association, regarding default judgments in domestic relations cases (ADM 2008-09).
- Proposed revisions of MCR 6.302 and 6.310, which would require plea discussions in criminal cases to be on the record and in public. In addition, a defendant who agrees to a plea based on a prosecutor's sentence recommendation would not be able to withdraw it if the judge rejects the prosecutor's recommended sentence (ADM 2009-11).
- Possible amendments of MRPC 3.1, "Meritorious Claims and Contentions," and MRPC 3.6, "Trial Publicity" (ADM 2009-06).
- Discussion regarding Macomb County Probate Court issues.

To view proposed or recently-adopted court rules online, and see related comments, go to <http://www.courts.michigan.gov/supremecourt/Resources/Administrative/index.htm#proposed>.

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